

CA 2 ON

XC14

-578

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

Official Report of Debates (Hansard)

SP-30

Journal des débats (Hansard)

SP-30

Standing Committee on Social Policy

Building Better Communities
and Conserving Watersheds
Act, 2017

Comité permanent de la politique sociale

Loi de 2017 visant à bâtir
de meilleures collectivités
et à protéger les bassins
hydrographiques

2nd Session
41st Parliament

Tuesday 31 October 2017

2^e session
41^e législature

Mardi 31 octobre 2017

Chair: Peter Tabuns
Clerk: Jocelyn McCauley

Président : Peter Tabuns
Greffière : Jocelyn McCauley



Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

<http://www.ontla.on.ca/>

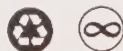
Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7400.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7400.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



ISSN 1710-9477

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

CONTENTS

Tuesday 31 October 2017

Building Better Communities and Conserving Watersheds Act, 2017, Bill 139, Mr. Mauro / Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques, projet de loi 139, M. Mauro.....	SP-653
---	--------

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 31 October 2017

Mardi 31 octobre 2017

*The committee met at 1601 in committee room 1.*BUILDING BETTER COMMUNITIES
AND CONSERVING WATERSHEDS
ACT, 2017LOI DE 2017 VISANT À BÂTIR
DE MEILLEURES COLLECTIVITÉS
ET À PROTÉGER LES BASSINS
HYDROGRAPHIQUES

Consideration of the following bill:

Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts /
Projet de loi 139, Loi édictant la Loi de 2017 sur le Tribunal d'appel de l'aménagement local et la Loi de 2017 sur le Centre d'assistance pour les appels en matière d'aménagement local et modifiant la Loi sur l'aménagement du territoire, la Loi sur les offices de protection de la nature et diverses autres lois.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I'm calling this meeting to order to resume clause-by-clause consideration of Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts.

Sibylle Filion from legislative counsel is here to assist us with our work. Thank you, Sibylle. We will resume consideration of schedule 4, section 19, which is where we were yesterday afternoon. Mr. Hardeman, I think you had finished up.

Mr. Lorne Coe: He had.

The Chair (Mr. Peter Tabuns): You had?

Mr. Ernie Hardeman: I think so.

The Chair (Mr. Peter Tabuns): Is the committee ready to vote on schedule 4, section 19?

Mr. Lou Rinaldi: We are.

The Chair (Mr. Peter Tabuns): Shall schedule 4, section 19 carry? Carried.

Members of the committee, we have sections 20 to 23 that can be bundled together—

Mr. Bob Delaney: Agreed.

The Chair (Mr. Peter Tabuns): Good. Others are agreed?

Interjection.

The Chair (Mr. Peter Tabuns): Bundle, bundle.

Mr. Percy Hatfield: Bundle. Okay.

The Chair (Mr. Peter Tabuns): You're all good? Excellent.

Shall schedule 4, sections 20 to 23, inclusive, carry? Carried. Good.

Then we go to government motion number 56: Mr. Rinaldi.

Mr. Lou Rinaldi: Schedule 4 to the bill, subsection 24(1) (subsection 27(4) of the Conservation Authorities Act).

I move that subsection 27(4) of the Conservation Authorities Act, as set out in subsection 24(1) of schedule 4 to the bill, be struck out and the following substituted:

"Payment of apportioned amount

"(4) Each participating municipality shall pay to the authority the portion of the operating expenses that is specified in the notice of appointment in accordance with the requirements set out in the notice and with this section."

The Chair (Mr. Peter Tabuns): Mr. Rinaldi, I thought I heard you say "appointment" when the word before me is "apportionment."

Mr. Lou Rinaldi: Apportionment, yes. Thank you.

The Chair (Mr. Peter Tabuns): "Apportionment" is correct. All right. Good.

Open for debate? Mr. Rinaldi, did you want to speak to that?

Mr. Lou Rinaldi: Sure. These change would provide municipalities with more flexibility to decide how to best fund CAs, so they're not in a straitjacket. Municipalities could have a bit more determination or authority on how to be able to do that.

The Chair (Mr. Peter Tabuns): Further discussion? There being no discussion, you're ready for the vote? All those in favour of government motion 56, please indicate. Opposed? It is carried.

We go to vote on section 24 as a whole. Is there any discussion of section 24?

Mr. Ernie Hardeman: Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes, Mr. Hardeman.

Mr. Ernie Hardeman: I have here amendment motion number 56.1.

The Chair (Mr. Peter Tabuns): That's coming up next.

Mr. Ernie Hardeman: That's coming up next?

The Chair (Mr. Peter Tabuns): Yes, but we have to deal with section 24 of schedule 4. We've amended it. Are you ready to vote on the section?

Mr. Percy Hatfield: Sure.

The Chair (Mr. Peter Tabuns): Fine. Shall schedule 4, section 24, as amended, carry? Carried.

We go to the next motion, NDP motion 56.1. Mr. Hatfield.

Mr. Percy Hatfield: I won't speed-read it because I think it's too important and it should be understood by everybody.

Schedule 4 to the bill, section 24.1 (sections 27.2 and 27.3 of the Conservation Authorities Act).

I move that the bill be amended by adding the following section:

"24.1 The act is amended by adding the following sections:

"Administrator

"27.2(1) Subject to subsection (2), the minister may, by order, appoint an individual as an administrator of an authority for the purposes of assuming control of it and responsibility for its activities.

"Condition precedent

"(2) The minister may exercise the power described in subsection (1) only if the minister is of the opinion that it is advisable to exercise the power in the public interest because at least one of the following conditions is satisfied:

"1. The minister is of the opinion that the authority has contravened or failed to uphold the purposes of the act or a duty or obligation imposed on the authority under the act and the regulations.

"2. An event of force majeure has occurred.

"3. The authority is facing a risk of insolvency.

"4. The number of members of the board of the authority is insufficient to form a quorum.

"Notice of appointment

"(3) The minister shall give the board of the authority the notice that the minister considers reasonable in the circumstances before appointing the administrator.

"Immediate appointment

"(4) Subsection (3) does not apply if there are not enough members on the board to form a quorum.

"Term of appointment

"(5) The appointment of the administrator is valid until the minister makes an order terminating it.

"Powers and duties of administrator

"(6) Unless the order appointing the administrator provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the authority.

"Same, limitations

"(7) In the order appointing the administrator, the minister may specify the administrator's powers and duties and the conditions governing them.

"Right of access

"(8) The administrator has the same rights as the board in respect of the documents, records and information of the authority.

"Report to minister

"(9) The administrator shall report to the minister as the minister requires.

"Minister's directions

"(10) The minister may issue directions to the administrator about any matter within the administrator's jurisdiction, and the administrator shall carry them out.

"No personal liability

"(11) No action or other proceeding shall be instituted against the administrator for an act done in good faith in the execution or intended execution of a duty or power under this act, the regulations, the delegated provisions, a minister's order or the appointment under subsection (1), or for an alleged neglect or default in the execution in good faith of that duty or power.

"Crown liability

"(12) Despite subsections 5(2) and (4) of the Proceedings Against the Crown Act, subsection (11) does not relieve the crown of liability to which it would otherwise be subject.

"Liability of authority

"(13) Subsection (11) does not relieve the authority of liability to which it would otherwise be subject.

"Status of board during administrator's tenure

"27.3(1) On the appointment of an administrator under section 27.2, the members of the board of the authority cease to hold office, unless the order provides otherwise.

1610

"Same

"(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise.

"No personal liability

"(3) No action or other proceeding shall be instituted against a member or former member of the board for anything done by the administrator or the authority after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2).

"Crown liability

"(4) Despite subsections 5(2) and (4) of the Proceedings Against the Crown Act, subsection (3) does not relieve the crown of liability to which it would otherwise be subject.

"Liability of authority

"(5) Subsection (3) does not relieve the authority of liability to which it would otherwise be subject."

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Hatfield?

Mr. Percy Hatfield: I believe Ms. Forster does.

The Chair (Mr. Peter Tabuns): Ms. Forster.

Ms. Cindy Forster: Once again, this comes forward as a request to committee members in those dire situations when you may need to have somebody appointed to oversee an agency that isn't playing by the rules.

I can tell you, in this four-year journey of mine, but more importantly, the last year, even with nine municipal councils representing a million constituents and four area MPPs supporting the initiative, calling upon the minister and the ministries to do an investigation, letters to the Auditor General with copies to Conservation Ontario, to

the Minister of Natural Resources, to the Ombudsman, to the Environmental Commissioner and even to the labour minister with respect to widespread harassment in that workplace, nobody could do anything. That was the answer that we got at every door that we knocked on. Conservation Ontario says, "We have no authority. They hire us to do their bidding, their lobbying." Right? To the MNR—there's nothing in the act to let us go in and address any of these issues.

I think it's incumbent on all of us, when we're talking about millions and millions of taxpayer dollars that are being used to support conservation authorities, that we make sure that in a situation like we have faced this past year, there is some process in place to actually address it.

Just to highlight in point form: We had property issues; we had protection of wetland issues; watershed issues and staffing of those watershed programs and environmentally sensitive lands; widespread workplace harassment; terminations—32 in total, either by involuntary resignation, severance, terminating or layoffs; legal fees to the tune of \$200,000 of taxpayer money used to sue private citizens in 2016, and that figure will probably be close to that again in 2017; SLAPP suits against private citizens; regional councillors getting sued in the process by companies who got contracted through an RFP process at the region and now regional councillors are being sued by that company, which had a relationship with the NPCA; board members who were censured and actually had to resign from the NPCA board; and board members being appointed to top jobs, one to the CAO of the Niagara region. He was a board member and took a leave of absence and then was appointed as CAO. He's now CAO of the region. Another board member took a leave of absence and was appointed to the top job of director of operations. It goes on and on.

Even with all of that and then the Auditor General being asked to do an audit last week and the committee supporting that, today I get a letter and Mr. Bradley gets a letter—I'm assuming they're the same letter. We haven't compared them. We're basically now getting letters from the NPCA saying, "You're all wrong. None of these things happened."

Just let me read you a couple of things: The survey conducted by OHCOW on workplace harassment was flawed. The NPCA did not lobby the government to allow developers to build in a significantly protected wetland. Instead, the NPCA hired a lobbyist to perform that communication function. The board of directors was presented with a confidential report regarding the member from the town of Lincoln, whom they censured, who resigned. In fact, we found it fitting to basically force his resignation. It goes on and on.

Even through all of this, they are still not acknowledging anything; right? So I really think it is incumbent on this committee to put something in place in this act to actually address those issues.

Yes, the Auditor General is going to go in and she's going to do an audit. Hopefully her "follow the money" will lead to exposing some of these issues. But at the end

of the day, there's going to be a report and that's going to be it. How are we going to actually address the ongoing issues that will occur with this particular conservation authority?

And it isn't just this one. I heard Mr. Colle last week, when we were at the public accounts committee, saying that he has had some issues—not as severe as the ones Mr. Bradley and I have been talking about for the last year. But there needs to be some way to address the use of taxpayers' dollars in these arm's-length agencies.

So I hope that the committee will support the spirit of this. It's not just about addressing what's happening in Niagara; it's about addressing some oversight of some kind for somebody to step in when it's needed.

The Chair (Mr. Peter Tabuns): I have Mr. Bradley; then I have Mr. Rinaldi.

Mr. James J. Bradley: I'm not a voting member of this committee, nor is Ms. Forster, so we are able to speak. We thank you very much for the opportunity to speak. Unfortunately, we are not able to vote on this particular motion. But were I to have the ability to vote, I would vote for the motion.

It really comes from what has happened with the Niagara Peninsula Conservation Authority, even though Mr. Colle reminded us—I don't want to misquote him—that we can't deal with this bill strictly based on an experience in one area. I take his suggestion about that, but this is how we are dealing with it at the local level. If it could be dealt with appropriately at the local level, the issues raised by Ms. Forster, then we would have dealt with it at the local level.

What essentially happened was that the Niagara Peninsula Conservation Authority managed to annoy developers in the area because they exercised their duty and responsibility to protect the environment. That annoyed people who wanted to have certain developments approved, and when the conservation authority either attached conditions or recommended against the developments, it annoyed people. So they went to elected representatives who were sympathetic to their case. The elected representatives in the new regional council had people appointed to the Niagara Peninsula Conservation Authority who were more accepting of the authority playing a lesser role in terms of the protection of the environment.

As a result, first of all, we have a new regional council this time around which is significantly different from the last regional council; I won't get into the local politics of it, but it is. They decided that they would have the NPCA become more accepting of development than they felt it had been previously.

There was an issue that came up about the creation of artificial wetlands to replace natural wetlands. There were some on the regional council and some on the Niagara Peninsula Conservation Authority who thought this might be a good idea. There was a great reaction against that in Niagara. They were particularly interested in a development that was proposed in Niagara Falls—a massive development.

What happened was, we started to see a firing of Niagara Peninsula Conservation Authority employees. This is one of the reasons that Mr. Hatfield has brought forward the motion that Ms. Forster spoke to. There seemed to be almost weekly—it probably wasn't weekly, but it seemed to be—firings taking place. I think the member mentioned that 32 people are no longer with the conservation authority doing the job that we expect employees of the conservation authorities to be doing, which was, in our view, most significant.

1620

These are things that Ms. Forster and I, Mr. Oosterhoff and Mr. Gates would have heard from various people who have contacted our offices. The fear is that the people who have been fired out the door are replaced with more pro-development people as employees of the region. That is the concern that has been expressed.

Ms. Forster made reference to the hiring of senior staff. There were questions asked: How did certain people get certain jobs, in the six-figure column, or at least very high-paying jobs, with the region? She described some of the circumstances where one person who was brought in to be the head, the CAO, of the peninsula authority is no longer there; he has now got the chief job in the region. So that's rather interesting—to see that evolution—as well. But there was that concern that was brought forward that people have brought to our attention.

There were accusations of cronyism, that people who got these high-echelon jobs knew the right people. There were questions asked: Where did they go on a job search for these senior positions? You don't know how tempted I am to say, "Did they go down a political party list?", but I won't say that.

Mr. Lou Rinaldi: It wouldn't be nice.

Mr. James J. Bradley: It wouldn't be nice, as the member mentioned.

People are exasperated there. If they thought they could solve it locally, they would. They've come to provincial members to try to undertake this responsibility.

There was also a complaint about contracts that were let, who got the contracts and how they got the contracts. That has been brought to the attention of the local MPPs. Ms. Forster mentioned that a couple of people in the Niagara region who dared to talk about that—regional councillors—were sued. They have to go into court over that, which is disconcerting, to say the least.

There was a land deal in Wainfleet where a property was purchased that caused a lot of consternation with the previous regional council. There was a previous chair and previous regional council who were very concerned. A well-known, well-connected individual owned certain property, they tell us. The property was purchased. They said that you could detect the odour of the sale somewhere over Lake Ontario, even though it was on Lake Erie. That has been expressed to those of us who have sat at the provincial level, and local-level people as well.

There was resistance to the call for an independent audit: "First of all, no, we don't need an independent

audit. We're doing fine ourselves, thank you." There was information being kept from requesters of information. That, again, was brought to the attention of the local members.

There was an expressed concern about the NPCA board and how it was overseeing things. There were local councils who were being worried, and passing resolutions and discussing this.

One of the concerns as well was the bullying taking place of anybody who dared to publicly criticize the conservation authority—the board and the chief administrators. We passed in this House a bill on SLAPP suits. There are a lot of people who said to me, "Aren't these SLAPP suits designed to shut people up?" There was a concern that anybody who was critical was bullying. There are a lot of people, by the way, Chair, who would be critical but are afraid of the repercussions.

Even Ms. Forster has been bullied on this particular issue by certain people on the conservation authority, because she was openly critical of the conservation authority. They've got some remote resolution that was passed by the local NDP association and brought to provincial council or something. It had nothing to do with the conservation authority. They snagged this and they said, "Well, this is the responsibility of Ms. Forster." It clearly wasn't the responsibility of Ms. Forster. Then they talked about it at regional council and passed the resolution. It was strictly a red herring. It wasn't the import of the resolution; it was the fact that they were using it against her, to bully her. She had the intestinal fortitude to take these folks on.

Fired employees had to sign an agreement that they would keep their mouths shut and not say anything, because when you exit out, they give you some money and you keep your mouth shut, is the way it was done. If you didn't do that, they sued you. In fact, one person had expressed a view and she had been sued by the conservation authority.

I think of a person by the name of Ed Smith—just a local citizen with no political agenda. I never knew the person to be involved in politics or anything. He came forward and took an interest in this. Well, he got sued, of course, for being critical.

Regional councillors have been sued. Bill Hodgson, who was a regional councillor from Lincoln—a well-known individual, a really good individual in the community—was bullied off the board because he was trying to make sure they had a good, independent outside audit taking place. They just passed a censure motion against him and bullied him, and he finally just, in exasperation, gave up.

Then there's Dave Augustyn, who is the mayor of Pelham, and, of course, now they're going after him. At his council, a person by the name of Rainer Hummel—now, Dave Augustyn is not known as a Conservative; Mr. Hummel was the president of the Niagara Falls Progressive Conservative association. He's going now to their council, saying, "We should have an audit of the council."

Councillor Barrick would have been criticized. Because he was criticized over the Niagara Peninsula Conservation Authority, he decided there should be an audit of the town of Pelham.

It goes on and on, the bullying that has taken place of people who have been critical in any particular way. I mentioned Ms. Forster as well.

First of all, I want to compliment the government on including in the bill certain provisions which allow the government to take action. Perhaps the parliamentary assistant will be mentioning that. There are certain provisions that I want to compliment the government on including in the bill—not this particular provision but other provisions—so that's going to be helpful. What Ms. Forster is saying is that it would not do the job that we, locally, feel should be at least an opportunity or a permission for a minister—should the minister wish to do so—to appoint a supervisor or administrator.

The Auditor General is now, as a result of a motion of Ms. Forster's supported by the government members—going to do an audit, but who the heck knows when that's going to be and how extensive it's going to be? People phoned me after and said, “Will it be a forensic audit? Will it deal with all issues down there, and will it really hire back the people who have been fired out the door?”

There's another thing that's happening now. They said, “We're going to suggest we take the employees of the conservation authority and move this responsibility over to the Niagara region.” Well, the conservation authority has one role, and that is to protect the natural heritage and the environment. The Niagara region has a role to get development going. There's a fear out there that if you move these people over to the Niagara region, they won't have the same independence and concern about the environment; they'll be more concerned about getting things through. The forensic audit is what critics say is needed.

Also, that member mentioned harassment on the job. There was a survey done by OPSEU, and the survey showed that people were saying that there's a good deal of workplace harassment taking place; this is what the survey said. Critics are saying that drastic action is needed now, and that is why this has been brought forward.

OPSEU gave a good submission, and I'm going to share with the committee, if I may, some of the submission that OPSEU made, which I think—and this was not what you expect entirely of the union. It's not all just pursuing union goals; it's pursuing public-interest goals. It says:

“As members of all three parties have noted in the Legislature, there are serious problems at the NPCA. Issues that have been raised by community stakeholders and the media include poor management of staff, financial mismanagement, questionable hiring, firing and reorganizing practices, and a pro-development bias on the part of senior management and some board members.

1630

“While many of the province's conservation authorities are running well, we have seen that there is little that

can be done by the province when a conservation authority ‘goes rogue.’ We believe Bill 139 has the potential to bring accountability and provincial oversight to conservation authorities when necessary.”

So here's what they suggest:

“(1) Empower MNRF to appoint a supervisor to oversee operations of conservation authorities when necessary.

“(2) Empower MNRF to appoint and remove conservation authority board members, in consultation with municipalities.

“(3) Ensure that conservation authority board members have some background or expertise in conservation issues.

“(4) Ensure that conservation-related duties related to land and water are the responsibility of conservation authorities and not municipalities.

“(5) Enable MNRF to order financial audits of conservation authorities, carried out by either the ministry or the Auditor General.

“(6) Ensure that conservation authorities carry out meaningful consultation with the public on major decisions.”

By the way, that's included in another amendment that was made, I think, by a NDP member, Mr. Hatfield, about meaningful consultation with the public.

They do go on, but you see the flavour of what OPSEU is suggesting in this situation.

This is not just OPSEU dealing with a union issue, although there are union issues here; it's dealing with public accountability. We wish we didn't have to be dealing with this at this committee. We wish that we could deal with it locally. Again, Ms. Forster has mentioned that when people have knocked on the door of the Ombudsman, there's not authority or something of that nature.

The door of the Environmental Commissioner, I guess, could be knocked on, but unless the Legislature orders something, that's not going to be within that purview. The auditor wanted to do an audit and then withdrew that, and then Ms. Forster in committee brought forward a motion which the committee approved, but we don't know when the auditor is going to do this.

So you can see the concern. Again, to be fair to the parliamentary assistant, who will give the position of the government, there are a lot of provisions in this bill which are going to be very helpful, which may allow the minister to take certain action. One would say, although I never put these forward, because it's a fallback position, which I'm never in favour of, but the supervisor is clearly, in my view and the view of Ms. Forster, the best option.

A second-best option would be to send in an investigator with full investigative powers to be able to do this. With the new provisions in the bill, that might be possible, but I know that—and I want to be fair again to the members of the committee—AMO would probably not be in favour of this because AMO—and I don't speak for AMO—probably would say, “Well, just because

you're having a problem here—we fund most of the conservation authority—we don't want you interfering.”

But there are times when governments at so-called senior levels have to take action, and I think the situation we confront in Niagara, from what we are told—these are not things that Ms. Forster and I, or Mr. Oosterhoff or Mr. Gates, have created in our own minds. These are what we are being informed of, by the way, by a lot of different citizens, a pretty good cross-section of citizens, of all political affiliations and of no political affiliations.

Were I able to vote, I would be voting for Mr. Hatfield's motion, as I'm sure I speak for Ms. Forster, that she would be if she were permitted to vote as a member of this committee. I'll cease and desist at this time and just hope for the best, as I think, Ms. Forster, you will.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Bradley. I have Mr. Rinaldi, then Mr. Hardeman and then Ms. Forster. Mr. Rinaldi?

Mr. Lou Rinaldi: Well, thank you. How do you follow that?

Interjection: Very carefully.

Mr. Lou Rinaldi: Very carefully. You know, I would say that I have an enormous amount of respect for the dean of Queen's Park, the dean of our members. He has been here a long time, and I will never live long enough to know one tenth of what this gentleman knows, so I give him a lot of credit. And also the ability to talk to the real issues that are facing this community, the same as Ms. Forster.

As Mr. Bradley and Ms. Forster mentioned, this is not an easy thing. The problem is that sometimes we're dealing with a rotten apple and we forget about the other apples in the basket. When I was reeve of a small, rural municipality years ago, we had to pass an anti-dog-barking bylaw because two neighbours didn't get along. At the end of the day, I found out the two neighbours were cousins and didn't talk to each other yet the whole municipality had to suffer, in a rural community. A farmer had to keep his dog quiet. Can you imagine that?

Having said that, I think the minister and staff have heard that argument, frankly.

For a number of reasons—a lot of them were stated; I'm not going to repeat them—we want to give the minister some powers to do—I think, very, very close, if not the exact thing that the motion by Mr. Hatfield brings. We could argue about how far apart it is or how close it is, but the intent is, given the circumstances, that will happen.

I'm just going to make some comments, and then I'm going to refer to the sections in the bill that address some of the shortcomings that Mr. Hatfield, Ms. Forster and Mr. Bradley are talking about.

These new powers, if the bill passes, will allow the Minister of Natural Resources and Forestry to:

- investigate and audit the operation of a conservation authority;

- compel a conservation authority to provide any information required for the investigation;

- direct a conservation authority to publicly disclose information; and

- force a conservation authority to change their bylaws based on the findings of an investigation.

That's the umbrella of what's included in the bill.

If I can talk specifically to the new powers in Bill 139—this is wording, by the way, from the bill. The minister can require a conservation authority to disclose any information related to its operations. It's a new section, 23.1(1) and 23.1(2) of the Conservation Authorities Act.

The minister can require a CA to publish any information related to its operations. Once again, it's a new section, 23.1(3) of the Conservation Authorities Act.

The new powers to update bylaws: The CA will be required to update their administrative bylaws—19.1(1) of the Conservation Authorities Act. The minister can direct a CA to amend their bylaws—which is, again, a new section, 19.1(6) and 19.1(7) of the Conservation Authorities Act.

I think I don't need to repeat, Chair, that a motion to public accounts, I believe, last week, presented by Ms. Forster—had support.

We believe that what the minister is trying to accomplish with the new sections in the bill, what the auditor is going to do—I think it's going to get us to a place where we'll be able to deal with the issues that these members are obviously experiencing in their communities, but it also gives some protection to the conservation authorities that do a good job day in and day out.

I have the privilege of having three conservation authorities in my riding. We meet maybe once a year. We phone them when we have an issue that a constituent phones us about, and they give us good advice. I have Lower Trent Conservation, which is for the Trent River, which has a huge impact. I have Ganaraska to the west, which encompasses the Ganaraska forest, the Ganaraska River. They're doing all the right things. That's my opinion.

I believe that what we're trying to do with Bill 139 is to make sure that we keep an eye out, and also give some tools to go in and investigate when it's necessary.

1640

I'm going to stop there, Chair.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rinaldi. Mr. Hardeman.

Mr. Ernie Hardeman: This may be the exception of all the days we've spent hearing this. I'm going to, in principle, agree with the member, the parliamentary assistant, speaking on this issue. I don't want to agree with him totally, in that I wouldn't agree with all the approaches that we're taking in the bill that would allow this issue that we've been discussing in Niagara to be solved. But I think it's important to recognize that passing this motion would put a real cloud over all the conservation authorities in Ontario: Somehow, Big Brother is sitting there; do something wrong and they can step in, take it over and fix it. I don't think that the history of conservation authorities dictates or suggests that that's what should be done with all the conservation

authorities. To say that we have to pass a bill that says that we can send in a supervisor at any point in time—I find it a little far-fetched to suggest that.

The reasons why the supervisor could be sent in this: “The authority is facing a risk of insolvency.” Well, insolvency, if it exists, would be the responsibility of the appointing authority that appointed the board, that is paying the bill, which is local government, to pay it. So I don’t know why that would be the time that the province should step in, because it’s the local money that they’re going to be short of.

“The number of members of the board of the authority is insufficient to form a quorum.” The members of the board are appointed by the local people, so if they haven’t got a quorum, that should be their responsibility to appoint a quorum—unless, I suppose, we’re suggesting that they just wouldn’t bother doing it, and then the province would have to step in, but I just can’t see that happening. If there wasn’t a quorum, they would appoint a quorum. I just don’t think that that’s a good enough reason to take this heavy hammer to all conservation authorities.

The authority is put in place somewhat similar to municipal government, the difference being that the members of the board of the authority are appointed by the people who are raising the money to pay the bills, and the people of municipal government get elected by the community and operate under the authority of the Municipal Act. The board here operates under the authority of the Conservation Authorities Act, but they’re in similar places.

To suggest that if things weren’t running right, we should pass a bill so that the Premier of the day could say, “We don’t like the way the county of Oxford is running, because, you know, they’ve been spending more money than they’ve got”—I can’t see the province of Ontario saying that, because they know how easily that can happen. But then they send in a supervisor to run the county because they don’t believe that the finances of the county are going in the right direction. That’s a local responsibility, and the people doing that become responsible to the people who elect them.

I think we call that a sledgehammer to kill a fly. I think that this goes much broader than this legislation should go in dealing a blow to all conservation authorities, suggesting that they’re not doing a reasonable job. I think that the issues of how this conservation authority is operating are hopefully going to be addressed by the motion that was passed, that the auditor is going to look at it.

When the auditor comes back with a report, I would suggest that at that point—she doesn’t have the power to make changes, but she has the ability to tell the appointing authority whether their conservation authority is doing the job they’re supposed to be doing. If not, they can change the conservation authority to do that. I think that that problem should be addressed that way, rather than heavy-handedly with this type of a resolution on all conservation authorities. I just don’t think that’s an acceptable method.

The Chair (Mr. Peter Tabuns): Ms. Forster.

Ms. Cindy Forster: I’ll just kind of sum up here. I understand that we don’t want to be painting everyone with the same brush, but in fact, we appoint supervisors to hospitals when there are problems, and nobody says, “Oh, well, the government shouldn’t do that.” We appoint supervisors to school boards when there are problems in our schools. We heard today about the government perhaps legislating faculty back to work. I would say that could be heavy-handed—if you want to say that having something in a document that says, “Sometimes, we might need to use this”; right?

I think I prefaced my comments every time I’ve spoken about this with, “Listen, I know that 95% of the conservation authorities are operating very effectively and very efficiently. They do a great job, as did ours up until the last few years.”

Mr. Bradley talked about the woman who got fired, who is now being sued. She’s being sued because she actually talked about the 90 incidents of workplace harassment that happened while she was a manager, for which an investigation was done, and they brushed that report under the rug. We’ve tried to FOI it and haven’t been able to get it. Those are the kinds of things that are happening there.

This is kind of a funny little story. Jim talked about meaningful consultation—or you spoke about meaningful consultation. The NPCA is doing this big kick-off of this new program, planting trees and planting some—I don’t know—endangered plants or something across the NPCA. They send out these invitations—by invitation only.

Somebody gets an invitation and forwards it to my office to say, “Maybe you would be interested in attending this.” You have to register. Then one of those bots that somebody was talking about today actually sends you a ticket. I get a ticket, as does Doug Draper, who is a reporter who is not well liked by this authority because of his reporting.

So we both get a ticket, but then we get an email the next day—the day of the event—saying, “Oh, well, you’re not invited. It’s for family and friends.” How is that “meaningful consultation”? You’re kicking off this huge program that you’re going to be doing over the next two or three years and you’re only inviting family and friends and you’re paying for it with taxpayers’ dollars.

I’m happy that there are some amendments coming forward. I don’t know that they will address the issues that I’m trying to talk about. But I will leave you with this final comment from the NPCA in the letter that Mr. Bradley and I got today. I missed it when we first talked about it.

“While we understand your concern following these changes, your statement also brings forward various claims based on lack of information. To clarify”—now, the audacity of this—“the NPCA is the only conservation authority to welcome the Auditor General. It is positive news that the request by the NPCA can now be accommodated.”

Come on. We have been trying to get the Auditor General in there for a year, but this is the mentality that we are dealing with with the administration and the board—some of the board; I won't say all of the board, but some of the board or the majority of the board at this agency.

Those are my comments. Thank you for listening.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I would like to commend the member from St. Catharines and the member from Welland for their very extensive explanation of the issues at the Niagara Peninsula Conservation Authority. The motion calls for the possibility of an appointment of a supervisor or an administrator to go in under exceptional circumstances. You may agree with some and not agree with others.

As Ms. Forster said, this isn't rocket science; this isn't breaking new ground. When I was a reporter in Windsor, I covered the appointment and the subsequent decisions made by a supervisor at Hôtel-Dieu Grace hospital. At the Windsor Roman Catholic district school board, they've had supervisors in there. They eventually get their business case back together and the supervisor moves on.

If you can do it for school boards and if you can do it for hospitals, then surely—I know, don't call you Shirley—

Mr. Lou Rinaldi: I've been called worse.

Mr. Percy Hatfield: —you can do it for conservation authorities.

1650

You know, when you look at what has been going on there—and it's been going on for quite a while. I've heard it said, "You can't do it just for one conservation authority." Well, nobody is saying that. They are saying that this could happen anywhere, the same as when the member from Oxford, when we talked about a landfill scenario in Oxford, said, "This isn't just about Oxford. This could happen anywhere." So to my friends in the Conservative caucus: This isn't just about Niagara. This could happen anywhere, under exceptional circumstances.

I had to laugh when I heard the member from St. Catharines talk about what the authority has been suggesting or doing, that they are going to get rid of a natural wetland and replace it with an artificial wetland. I had to think of Niagara Falls and replacing it with an artificial falls, maybe from a garden hose or a fire hose? How silly is that? You're going to replace natural wetland with artificial wetland. There are certain things that just don't add up when I look at those scenarios.

I am optimistic that the Auditor General's involvement—not that she was invited in. She is being put in by a committee from Queen's Park, so don't believe that nonsense about how they extended an invitation. I'm excited about that possibility, and I hope at the end of the day some information will come out of there that will put more of what we've heard today on the record.

When the executive director of Conservation Ontario was here, Mr. Bradley raised some fine points with her and she fluffed him off. I asked her, "Would you consider putting this on your next agenda?" And it was, "I'll take it under advisement," or something. That, to me, gave Conservation Ontario a black eye.

I have been one of the biggest proponents of conservation authorities since I've been here for my four years. I've told you many times that I served seven years on the Essex Region Conservation Authority. I was the chair; I was vice-chair twice. I was an involved member, planting trees whenever I could, supporting the authority in any way I could. But after hearing that they're not going to do anything, that they don't want to get involved even though this is giving a black eye to a lot of conservation authorities because they won't step in or they won't indicate, "Yes, we have concerns," I'm not going to be the big supporter that I used to be of other conservation authorities. I'll stand up for mine from now on, but after seeing that they don't want to get involved in this when they should be involved in this, I'm not going to be the big supporter anymore on that.

When my friend the parliamentary assistant said that it's not an easy thing, that it's as if you have a rotten apple and you've got to save the other apples in the barrel, I kept thinking about going over those artificial falls in a barrel. It would be really tough to do, right? I don't know what that barrel would do going down that fire hose or that garden hose, you know?

Mr. Lou Rinaldi: We won't be going over the falls either, rest assured.

Mr. Percy Hatfield: But when you talk about artificial wetlands as opposed to natural wetlands, it's something else.

I heard you say that there will be provision in here to disclose any information and public information and update the bylaws, but, you know, you can update a bylaw to correct a mistake or an oversight, or you can update a bylaw to perhaps embellish or put more weight behind a decision from a previous bylaw that you've already undertaken. You can improve your situation by an updating of the bylaws or you can correct a situation that has gone on before. So I don't have a lot of faith, when you say they are going to update the bylaws, that that's necessarily going to lead to an improvement.

My good friend from Oxford, again, raised a good point about the quorum. I won't dispute that in any way. He said it puts a cloud over all conservation authorities, and I think it does. But I don't think it's far-fetched at all to think that this could happen someplace else, and that somebody dealing with conservation authorities on a daily basis should be doing something about that.

I don't see it as a heavy hammer. I don't see it as a sledgehammer to kill a fly. I think this is a much more serious issue that we have to address now, in some form, before it happens someplace else. I don't want to see what's happening there be replicated anywhere else in the province, because what's going on there, from what I've read and what I've heard when I listen to the members

from St. Catharines, Welland and Niagara Falls, I think is not a good thing. It's not a good thing for us, to sit back and allow it to happen.

We have more of a responsibility to make sure that conservation authorities are run in a proper and efficient way. This is an opportunity to do that. If we can appoint supervisors, superintendents and inspectors for any other reason, be it a hospital or a school board, we surely should be able to do it for a conservation authority.

The Chair (Mr. Peter Tabuns): Mr. Coe.

Mr. Lorne Coe: I wanted to thank MPP Bradley and MPP Forster for their passionate input on this particular item.

The committee members who are here have all served at some point on conservation authorities in their municipal careers. They're bringing perspectives based on that experience. I did as well, with the conservation authority in Durham region.

An aspect of how it operated—and it's true in other similar-sized conservation authorities—was that a funding and accountability agreement was in place. That had regular reporting provisions within that funding and accountability agreement, that there was a due diligence on the part of the board to report back out to the regional council. Now, I understand that the Niagara experience has not been a good one, but the provision of the funding and accountability agreement, in my experience, was a strong tool in terms of assessing the extent to which the activities of the conservation authority were being implemented in the manner that was the expectation of the funding authority, which was the region of Durham.

There was another provision in that funding and accountability agreement that if, in the opinion of the commissioner of financial services and the chief administrative officer of the region of Durham, in their assessment, the conservation authority was not meeting the expectations, then the regional chair within the region of Durham had the opportunity to come in and take control of that particular conservation authority. It was in the funding and accountability agreement. That retains local control, in my estimation, where it should be, not in the hands of the provincial government.

I think whilst the intent and direction of this amendment is well intentioned, it's an overreach. I don't believe the provincial government has a place in the management, potentially, of conservation authorities here in Ontario.

The parliamentary assistant, Chair, did itemize specifically some of the aspects of the legislation before us that provide the checks and balances. That's the overarching, underpinning piece here, and it's supplemented, in my experience, by the existing funding and accountability agreements. So you have checks and balances in place operationally, and accountability is in place, where the activities, as they should be laid out—and then there's an umbrella already proposed in the legislation, should it be passed, that I think does provide the network of checks and balances that I think are being sought.

Is it perfect? Probably not, but again, in my experience, it's much better than the amendment in front of us.

1700

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: We talk about school boards having somebody go in, and we talk about hospitals. I have two hospitals that the minister, after lobbying, on my part—they sent in somebody, and they were able to straighten things out.

We have to remember that for both of those ministries, education and health care, we fund 100% of those operations. We have that kind of a stake in the game.

With the conservation authorities, from what they tell me—and I stand to be corrected—the province doesn't even fund 10%, or maybe 10%. The municipalities are the ones that are providing the majority of the funding. Some of them do fundraisers as well, and I've been to a number of them. So it's pretty hard to tell a municipality, "Well, this is your baby, you're paying for it," and then we go in with that heavy hand.

The minister's staff might not appreciate what I'm going to say, but the reality is, I had a chat with the minister about this, and she assured me that once Bill 139 is passed, she will do her due diligence in making sure that we adhere to the law of the land of the day. That, I think, will give all of us here, and the rest of the House—to put pressure that certain things get done.

I know that sometimes things take a while. Government doesn't move very fast.

I'm confident that what we've proposed in Bill 139—if Bill 139 is passed with the content, I think we'll certainly have a lot better place tomorrow than we have today.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: I'm going to do it a second time; I agree with the parliamentary assistant. All the other options of sending in a supervisor is where the province is paying the majority of the bill. I think in this situation the appropriate place for the supervisor to come from, if they need to do it, would be from the authority that's paying the majority of the bill, which would be local government.

I just wanted to make a quick comment on the comparison between the motion we debated at great length yesterday—and how it affects all of the province, not just Oxford. In that case, everyone that it affects would be supportive of having the control at their level. So it was actually providing that control for everyone. This one here would be—yes, it's not just about Niagara, but it would impose the same on all conservation authorities. I doubt whether you could find one other one—not even Niagara, in this case—that would support this motion if they were given the chance to vote on it.

So I think there is a considerable difference between the two issues. I don't want to say I'm changing my mind just because we're another day, another dollar.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Recorded vote, Chair.

The Chair (Mr. Peter Tabuns): Ms. Forster.

Ms. Cindy Forster: My final comment is, it doesn't matter whether it's the province paying or whether it's

the municipality paying. There's only one taxpayer, and it's the taxpayers who are paying for the conservation authorities. It's coming out of their pockets, and they're the ones who've asked to have something done in Niagara.

The Chair (Mr. Peter Tabuns): With that, we're ready for the vote.

Ayes

Hatfield, McMeekin.

Nays

Coe, Hardeman, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

Colleagues, I'd like to ask your indulgence for a five-minute break and then we'll return.

The committee recessed from 1705 to 1710.

The Chair (Mr. Peter Tabuns): Members of the committee, we're back in session.

I wanted to say to all of you that we've made an administrative change in the order of the amendment package. We're now going to deal with government motion 58—it just makes more sense in terms of the flow of motions—before we go on to others. So we'll go to 58 and then we'll go to 57, which is a PC motion.

Ms. Malhi.

Ms. Harinder Malhi: Schedule 4 to the bill, section 25 (subsection 28(1) of the Conservation Authorities Act).

I move that subsection 28(1) of the Conservation Authorities Act, as set out in section 25 of schedule 4 to the bill, be amended by striking out "Subject to subsections (2) and (3)" at the beginning and substituting "Subject to subsections (2), (3) and (4)".

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: This was a drafting error that we're trying to fix.

The Chair (Mr. Peter Tabuns): Any further discussion? There is none. We'll go to the vote. All those in favour of government motion 58, please indicate. Opposed? It is carried.

We go to PC motion number 57. Mr. Hardeman.

Mr. Ernie Hardeman: Schedule 4 to the bill, section 25 (section 28 of the Conservation Authorities Act).

I move that section 28 of the Conservation Authorities Act, as set out in section 25 of schedule 4 to the bill, be amended by adding the following subsections:

"Powers of entry

"(4.1) An authority or an officer appointed under a regulation may enter private property, other than a dwelling or building, without the consent of the owner or occupier and without a warrant, if,

"(a) the entry is for the purpose of considering a request related to the property for permission that is required by a regulation; or

"(b) the entry is for the purpose of enforcing a regulation and the authority or officer has reasonable grounds to believe that a contravention of the regulation is causing or is likely to cause significant environmental damage and that the entry is required to prevent or reduce the damage.

"Time of entry

"(4.2) Subject to subsection (4.3), the power to enter property under subsection (4.1) may be exercised at any reasonable time.

"Notice of entry

"(4.3) The power to enter property under subsection (4.1) shall not be exercised unless,

"(a) the authority or officer has given reasonable notice of the entry to the owner of the property and, if the occupier of the property is not the owner, to the occupier of the property; or

"(b) the authority or officer has reasonable grounds to believe that sufficient environmental damage is likely to be caused during the time that would be required to give notice under clause (a).

"No use of force

"(4.4) Subsection (4.1) does not authorize the use of force.

"Offence: obstruction

"(4.5) Any person who prevents or obstructs an authority or officer from entering property under subsection (4.1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000."

The Chair (Mr. Peter Tabuns): Mr. Hardeman, at the top of page 2, in paragraph (b), you said "sufficient" rather than "significant."

Mr. Ernie Hardeman: I apologize—"believe that significant environmental damage".

The Chair (Mr. Peter Tabuns): Discussion. Mr. Hardeman?

Mr. Ernie Hardeman: Mr. Chair, this reinstates the limits on warrantless entry currently in the Conservation Authorities Act. The act has this type of restriction in it. I think it's very unlikely that at any point in time we should have these entries totally warrantless. Unless there's immediate danger, in most cases, dealing with these types of things, they can take the time to get a warrant.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, just to be clear: Under the Ontario regulatory code of conduct, that's already covered, and that goes for any such provisions.

The Chair (Mr. Peter Tabuns): Further discussion? There being no further discussion, you're ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Coe, Hardeman.

Nays

Delaney, Dickson, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to government motion number 59. Ms. Malhi?

Ms. Harinder Malhi: Schedule 4 to the bill, section 25 (subsection 28.1(1) of the Conservation Authorities Act).

I move that subsection 28.1(1) of the Conservation Authorities Act, as set out in section 25 of schedule 4 to the bill, be struck out and the following substituted:

“Permits

“28.1(1) An authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of the authority,

“(a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land;

“(b) the activity is not likely to create conditions or circumstances that, in the event of a natural” disaster, “might jeopardize the health or safety of persons or result in the damage or destruction of property; and

“(c) any other requirements that may be prescribed by the regulations are met.”

The Chair (Mr. Peter Tabuns): My apologies. Under (b), second line, “of a natural hazard”: Could you just reread that, please?

Ms. Harinder Malhi: Sorry, which part? Section (b)?

The Chair (Mr. Peter Tabuns): Yes, line 2 of (b). It just was not clear for us.

Ms. Harinder Malhi: “(b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; and”

The Chair (Mr. Peter Tabuns): Thank you. Mr. Rinaldi?

Mr. Lou Rinaldi: This is one of four government motions being proposed to clarify that a CA can only approve projects that do not put people and property at risk.

The Chair (Mr. Peter Tabuns): Further discussion? There is none? People are ready for the vote? All those in favour of government motion 59, please indicate. Opposed? It is carried.

We go to NDP motion 59.1. Mr. Hatfield?

Mr. Percy Hatfield: If I could bring the committee’s attention to a typo in the heading: “Schedule 4 to the bill, section 25 (subsections 28.1 (3.1) to”—where it says “(3.2)”, that should be “(3.3)”.

The Chair (Mr. Peter Tabuns): Aha. Thank you.

Mr. Percy Hatfield: If there’s agreement to change the typo, then I’ll go on.

The Chair (Mr. Peter Tabuns): It’s noted in Hansard, so proceed.

Mr. Percy Hatfield: All right, thank you. Schedule 4 to the bill, section 25 (subsections 28.1 (3.1) to (3.3) of the Conservation Authorities Act).

I move that section 28.1 of the Conservation Authorities Act, as set out in section 25 of schedule 4 to the bill, be amended by adding the following subsections:

“Notify the public

“(3.1) If an authority receives an application under this section the authority shall notify the public in accordance with the regulations.

“Public submissions

“(3.2) A person who is not the applicant may make submissions to the authority in accordance with the regulations regarding the applicant’s application.

“Authority to consider public submissions

“(3.3) If the authority receives a submission pursuant to subsection (3.2), the authority shall consider the content of the submission in making a determination about whether to issue a permit.”

The Chair (Mr. Peter Tabuns): Did you wish to speak to that?

Mr. Percy Hatfield: Very briefly: Is it West Gwillimbury?

Interjection.

Mr. Percy Hatfield: North Gwillimbury. Jack Gibbons is here from the concerned citizens in North Gwillimbury, and he has brought this to our attention. In situations in the past, not all of the information has been easily accessible to the public when the conservation authority has been making some moves. It is his request that the conservation authorities notify the public when they’re going to be changing the regulations, and that even if you’re not an applicant but you are a concerned citizen who may be affected by whatever the application is in front of the conservation authority, you may make submissions to the authority.

1720

I think it’s one of those amendments that I would hope the government would accept. There’s no harm in it. It just basically, under the old open and transparency provisions of our majority Liberal government—they remind us that they are so open and transparent. This is another avenue to prove to the public that you are indeed open and transparent.

The Chair (Mr. Peter Tabuns): I have Mr. Bradley.

Mr. James J. Bradley: Again, I am not a member of this committee—

The Chair (Mr. Peter Tabuns): I’ve noticed.

Mr. James J. Bradley: I’m not a voting member of this committee, so I would not have the opportunity to cast a vote on this issue. However, having been a Minister of the Environment for about eight years and having been a person who is very interested in subjects of this kind—planning and development—I look at this and wonder how on earth it could be considered to be detrimental to the planning process in Ontario. It’s quite benign. It only asks, for instance, at the end, “If the authority receives a submission pursuant to subsection (3.2), the authority shall consider the content of the submission in making a determination about whether to issue a permit.”

I can understand that the concern on the other side is going to be that every time you want to dot an I or cross a T, somebody is going to be making a submission. I don't think that's the case. This appears to be a case where it would be helpful to hear from the public. Even if the authority determines ultimately that the developer should get what the developer wants because it meets all the requirements of the authority, at least the authority will have heard another view on the issue before making a determination. As it is at present, I understand, the developer has that opportunity to make the submission and the citizen does not. Mr. Hatfield has indicated that it's a matter of allowing more transparency, more input. That's beneficial.

I don't see something in here that is so onerous that it's going to delay for several months—I can understand that sometimes authorities and municipalities and perhaps even provincial and federal governments are concerned that something is going to be delayed for nine months or two years or something through what they would consider to be, in their opinion, frivolous opposition. In this case, it is asking only that they have the opportunity to have this input.

Were I a voting member of the committee, I would be supporting this. As an individual member of the Ontario Legislature and as an individual member representing the city of St. Catharines, I would be voting for this. I cannot speak for the government on this issue, though.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Sure. I certainly respect my colleague's comments, and he's right to a certain extent, but I want to point out that the bill already enables the minister to make regulations governing public consultation. It's in the bill already to allow the minister to do that.

This is requiring the authorities to consult on the permits they currently issue. It would be like asking a municipality to consult on building code approvals. I think we're delving way deep in the weeds, and I'm not sure we need to get there.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Just on the last comment that the parliamentary assistant made, on delving deep into the weeds: In fact, as I recall—and I don't know if this is what led Mr. Gibbons to have this conversation about this amendment, but last year or this spring there was an issue that came up in his township where there was some property, a significant wetland, I believe, an environmentally sensitive area that 20 or 50 years ago somebody said they could develop a trailer park or something there, and nothing ever happened since then. The wetland grew a bit, the forest grew up a bit, and now all of a sudden the developer wanted to do something, but you would think it would not be allowed because of the significance of the property and so on. I don't know if that's what led to this. It was tough for the citizens up there to have a say.

What I sense here—again, I know I've said this two or three times during the clause-by-clause hearings, about

openness and transparency. There's no provision in here that could possibly delay anything; it's just that they have to let the public know that they're considering developments, and if a member of the public decides that they'd like to make a submission, they're allowed to do so. It doesn't say, "This is a delay." It says that if they get an indication or a submission, they'll consider the content.

A developer may come in and say, "I want to do this, and I've had the right to do this for a while," but somebody from the public may come in and say, "Well, actually, they used to have that right, but under this or under that, the topography of the property has changed. There are now more endangered species there that you haven't taken into account. The flora and the fauna have changed over time. All we're asking before you make your decision to grant the permit is to look at what we're saying, evaluate the evidence and leave that in part of your determination on whether that permit will be issued."

I know the parliamentary assistant has said it will come in regulation, but again, we go back to that argument about how what's in the regulation won't necessarily be evident for some time. Between now and then, there could be development taking place, or the regulations may or may not ever get to this fine a point, because, as Mr. Rinaldi has said, we're delving deep into the weeds here.

I think that from an environmental standpoint, we should be looking at the weeds. We should be looking at significant wetlands, be it the weeds or the endangered species. Some people may consider them weeds, and other people may say, "You know, without these weeds, we're not going to have monarch butterflies." We have to take a more global perspective, if you will, Chair, on what we're doing.

All this does is give interested parties who care about their environment, who care about properties on which development may take place at some point in the future—it's not like they're going to stand up and oppose everything that's proposed, but on subjects near and dear to their hearts, on land they want to protect for our children and our grandchildren, they want to bring to the attention of the governing authorities, those who grant the permits, some new information that they may not be aware of, or it could even be old information that has long been forgotten.

I just can't see the harm in it. Even though I've heard it's going to be in the regulation, and not to worry, this just puts it up front and centre to the new director or chair of the conservation authority, or the new members of the conservation authority, or anybody else working for a conservation authority, that this is something we don't have to go looking into other aspects of any other bill or policy statement for. It's right in front of us.

As an employee or as a board member, if somebody wants to develop something, we've got to let the public know, and if the public says, "I'd like to make a submission," you accept the submission. You consider it. You're still going to make a decision. It doesn't prevent

you from doing that. It just allows you to consider other information that may come in which is of significant importance to what's being proposed.

Letting the public know is that openness and transparency thing again. We keep going back on it. You base your reputation on being open and transparent, and then you say, "Oh, but it's in the regulations." Yes, wherever the heck the regulations are or will be six months, a year or six years from now. It's in the regulations; it's on that top shelf in the corner office. Jack Gibbons isn't going to go to that top shelf in the corner office to look for it. He wants to know—

Mr. Ted McMeekin: You don't know Jack.
1730

Mr. Percy Hatfield: He probably knows where it is already, but he wants, in his community, in his township newspaper or whatever, a little thing that says, "The conservation authority is going to be considering a development proposal for 50 acres on a significant wetland. If you're interested, send in a submission. We're going to consider all submissions before we make our decision." That's all this is about: openness and transparency.

You keep saying that it's going to be in regulations and I keep saying that possibly it will get into regulations and possibly be dealt with, but what's the harm in saying to the conservation authority, "If you get a proposal, let's make it public and consider submissions before you make your final determination"? That's all this amendment does.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote?

Mr. Percy Hatfield: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote is requested. I just would ask that people are very emphatic in putting up their hands so that it's easier for us to count. Sometimes some of you are more relaxed about this than others. Be less relaxed.

Ayes

Coe, Hardeman, Hatfield.

Nays

Delaney, Dickson, Malhi, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

Mr. James J. Bradley: Mr. Chair, if I may at this moment, briefly?

The Chair (Mr. Peter Tabuns): Yes?

Mr. James J. Bradley: I sit on the legislation and regulations committee of cabinet, and I want to assure my friend Mr. Hatfield that I will be dealing with this matter on the committee called regulations and legislation whenever that happens. So at least you know that I will be vigilant on this matter when it reaches the regulatory stage.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I have great respect for the member from St. Catharines. I accept everything that he just said as gospel, and if he said it, from his lips to God's ear, I know it will happen and I thank you very much for it. I'm sure Mr. Gibbons does as well.

The Chair (Mr. Peter Tabuns): Thank you all.

We go now to government motion number 60. Ms. Malhi.

Ms. Harinder Malhi: Schedule 4 to the bill, section 25 (subsection 28.1(4) of the Conservation Authorities Act).

I move that subsection 28.1(4) of the Conservation Authorities Act, as set out in section 25 of schedule 4 to the bill, be struck out and the following be substituted:

"Conditions

"(4) Subject to subsection (5), an authority may issue a permit with or without conditions."

The Chair (Mr. Peter Tabuns): Thank you, Ms. Malhi. You had said "and the following be substituted," but "be"—

Ms. Harinder Malhi: "And the following substituted." Sorry.

The Chair (Mr. Peter Tabuns): Thank you.

Okay. Mr. Rinaldi, please.

Mr. Lou Rinaldi: This follows the other motion from government. This is a consequential amendment required to make it explicit that a CA can only approve projects that do not put people and property at risk.

The Chair (Mr. Peter Tabuns): Further discussion? There is none. You're ready for the vote? All those in favour of government motion number 60, please indicate. All those opposed? It is carried.

We go to government motion number 61. Ms. Malhi.

Ms. Harinder Malhi: Schedule 4 to the bill, section 25 (subsection 28.1(6) of the Conservation Authorities Act).

I move that subsection 28.1(6) of the Conservation Authorities Act, as set out in section 25 of schedule 4 to the bill, be struck out and the following substituted:

"Renewable energy projects

"(6) In the case of an application for a permit to engage in development related to a renewable energy project as defined in subsection 1(1) of the Green Energy Act, 2009,

"(a) the authority shall not refuse the permit unless it is of the opinion that it is necessary to do so to control pollution, flooding, erosion or dynamic beaches; and

"(b) despite subsection (4), the authority shall not impose conditions on the permit unless the conditions relate to controlling population, flooding, erosion or dynamic beaches."

The Chair (Mr. Peter Tabuns): If I can just take you back to the second-last line of (b), what we heard here was "controlling population"—

Ms. Harinder Malhi: Pollution.

The Chair (Mr. Peter Tabuns): "Controlling pollution." Thank you.

With that—

Mr. Lou Rinaldi: What's the difference?

The Chair (Mr. Peter Tabuns): They're similar but different. Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, I think it's very self-explanatory.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: Mr. Chair, I have a challenge with this, as this seems to treat renewable energy projects within a watershed differently than any other projects in a watershed. I don't believe that we should be giving preferential treatment for one type of development over another.

The Chair (Mr. Peter Tabuns): Thank you. Further discussion? There is none. We're ready for the vote.

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Malhi, McMeekin, Rinaldi.

Nays

Coe, Hardeman.

The Chair (Mr. Peter Tabuns): The motion is carried.

With that, we go to voting on the section as a whole. Are there any questions about section 25 before we go to the vote?

Mr. Lou Rinaldi: We're ready.

The Chair (Mr. Peter Tabuns): You're ready?

Mr. Ernie Hardeman: I'm ready.

The Chair (Mr. Peter Tabuns): All are ready? Good. Shall schedule 4, section 25, as amended, carry? It is carried.

Colleagues, we have two sections here that don't have amendments: sections 26 and 27. I'd like to bundle them.

Mr. Bob Delaney: Agreed.

The Chair (Mr. Peter Tabuns): I have an opening offer from the Liberals. Is everyone else agreeable to bundling? Great.

Shall schedule 4, sections 26 and 27, inclusive, carry? Carried.

Mr. Ernie Hardeman: No.

The Chair (Mr. Peter Tabuns): A "no" was uttered.

We now go to section 28 and PC motion number 62. Mr. Hardeman.

Mr. Ernie Hardeman: Schedule 4 to the bill, section 28 (section 30 of the Conservation Authorities Act).

I move that section 28 of schedule 4 to the bill be struck out and the following substituted:

"28. Section 30 of the act is repealed."

The Chair (Mr. Peter Tabuns): Sorry—

Mr. Ernie Hardeman: Oh, I'm reading 62.

The Chair (Mr. Peter Tabuns): It's a bit longer than that.

Mr. Ernie Hardeman: I haven't got a 62. Oh, there it is. It was in a different order. Let's try again. I was reading the government one.

The Chair (Mr. Peter Tabuns): If you'll start with the title at the top.

Mr. Ernie Hardeman: Schedule 4 to the bill, section 28 (section 30.1 of the Conservation Authorities Act).

I move that section 30.1 of the Conservation Authorities Act, as set out in section 28 of schedule 4 to the bill, be struck out and the following substituted:

"Restriction on entry

"30.1(1) The authority or an officer appointed under a regulation shall not enter land without,

"(a) the consent of the owner of the land and, if the occupier of the land is not the owner, the consent of the occupier of the land; or

"(b) the authority of a warrant under the Provincial Offences Act.

"Exceptions

"(2) Subsection (1) does not apply to entry under clause 21(1)(b) or subsection 28(4.1).

"Entry with warrant

"(3) An officer appointed by an authority under section 30 may, with a warrant or with permission of the owner, enter any land situated in the authority's area of jurisdiction for the purposes of determining compliance with subsection 28(1), a regulation made under subsection 28(3) or section 28.5 or with the conditions of a permit issued under section 28.1 or under a regulation made under clause 28.5(1)(c).

"Entry without warrant

"(4) If the officer has reasonable grounds to believe that there is something located on the land that will afford evidence relevant to the purposes set out in subsection (3) but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the officer may enter the land without a warrant.

"No entry to the buildings

"(5) The power to enter land under subsection (4) does not authorize the entry into a dwelling or other building situated on the land.

"Time of entry

"(6) The power to enter land under subsection (4) may be exercised at any reasonable time.

"No use of force

"(7) Subsection (4) does not authorize the use of force."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. There are two things that I need to clarify.

On the first page, under "Restriction on entry," 30.1(1), you said "The authority or an officer." You meant "An authority," did you not?

1740

Mr. Ernie Hardeman: Yes. That's exactly what I meant.

The Chair (Mr. Peter Tabuns): And you'll say the words "An authority"?

Mr. Ernie Hardeman: "An authority".

The Chair (Mr. Peter Tabuns): Thank you.

Then the next page, under "entry to buildings," you said, "No entry to the buildings." If you would read that.

Mr. Ernie Hardeman: "Entry to the buildings."

The Chair (Mr. Peter Tabuns): No.

Mr. Ernie Hardeman: "No entry to buildings."

The Chair (Mr. Peter Tabuns): Yes, that's fine.

Mr. Ernie Hardeman: "(5) The power to enter land under subsection (4) does not authorize the entry into a dwelling or other building situated on the land."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Would you like to speak to that?

Mr. Ernie Hardeman: This amendment will introduce a protection against warrantless entry currently in section 30.1 of the Conservation Authorities Act. The section states that an officer cannot enter the land without either consent of the owner or occupant of the land or the authority of a warrant except in situations outlined in the amended section 28 of the CA act.

I think that this government is once again stripping away the rights of property owners by expanding the entry-without-warrant provision in the Conservation Authorities Act. This government has done this in a number of other pieces of legislation, and now we hear on a regular basis that, "We've done it in all the others so we're doing it the same way in this one." I think that's not a good enough reason to allow warrantless entry on private property.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, I'll make it very brief. Similar to a previous motion, there is an Ontario regulatory code of conduct that staff in Ontario must abide by, and that applies to all other legislation.

The Chair (Mr. Peter Tabuns): Further discussion? There is none? People are ready for the vote?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Peter Tabuns): Recorded vote requested.

Ayes

Coe, Hardeman.

Nays

Delaney, Dickson, Malhi, McMeekin, Rinaldi.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to government motion number 63. Ms. Malhi.

Ms. Harinder Malhi: Motion 63, schedule 4 to the bill, section 28 (section 30 of the Conservation Authorities Act).

I move that section 28 of schedule 4 to the bill be struck out and the following substituted:

"28. Section 30 of the act is repealed."

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Chair, it's pretty well self-explanatory, I think.

The Chair (Mr. Peter Tabuns): Okay. Any discussion? Mr. Hatfield?

Mr. Percy Hatfield: I look forward to Ms. Malhi reading the next one in the same length of time.

The Chair (Mr. Peter Tabuns): No other discussion? All those in favour of government motion 63, please indicate. Those opposed? It is carried.

Ms. Harinder Malhi: Percy, are you ready?

The Chair (Mr. Peter Tabuns): No, don't read anything out yet. I don't want to stop you midstream.

We've got a vote on section 28, as amended. Is there any discussion of section 28 before—

Mr. Bob Delaney: Carried.

The Chair (Mr. Peter Tabuns): You're jumping the gun, Mr. Delaney. I understand your eagerness, but still.

Any discussion? Fine. Ready for the vote? Shall schedule 4, section 28, as amended, carry? It is carried.

We go to government motion 64. Would that be you, Ms. Malhi?

Ms. Harinder Malhi: Oh, yes.

The Chair (Mr. Peter Tabuns): Go to it.

Ms. Harinder Malhi: Okay, let's do this. Motion 64, schedule 4 to the bill, section 28.1 (section 30.1 of the Conservation Authorities Act).

I move that schedule 4 to the bill be amended by adding the following section:

"28.1 Section 30.1 of the act is repealed and the following substituted:

"Part VII

"Enforcement and Offences

"Appointment of officers

"30.1 An authority may appoint officers for the purposes of ensuring compliance with the act and the regulations.

"Entry without warrant

"30.2(1) An officer appointed by an authority under section 30 may, subject to subsections (2) and (3), enter any land situated in the authority's area of jurisdiction for the purposes of determining compliance with subsection 28(1), a regulation made under subsection 28(3) or section 28.5 or with the conditions of a permit issued under section 28.1 or under a regulation made under clause 28.5(1)(c).

"No entry to buildings

"(2) The power to enter land under subsection (1) does not authorize the entry into a dwelling or other building situated on the land.

"Time of entry

"(3) The power to enter land under subsection (1) may be exercised at any reasonable time.

"Power upon entry

"(4) An officer who enters land under subsection (1) may do any of the following things:

"1. Inspect any thing that is relevant to the inspection.

"2. Conduct any tests, take any measurements, take any specimens or samples, set up any equipment and make any photographic or other records that may be relevant to the inspection.

"3. Ask any questions that are relevant to the inspection to the occupant of the land.

"No use of force

“(5) Subsection (1) does not authorize the use of force.

“Experts, etc.

“(6) An officer who enters the land under this section may be accompanied and assisted by any person with such knowledge, skills or expertise as may be required for the purposes of the inspection.

“Searches

“Search with warrant

“30.3(1) An officer may obtain a search warrant under part VIII of the Provincial Offences Act in respect of an offence under this act.

“Assistance

“(2)”

The Chair (Mr. Peter Tabuns): Ms. Malhi, before you go further: Under “Experts, etc.”, number six, the paragraph just above, you had said, “An officer who enters the land under this section”. Could you just read it out?

Ms. Harinder Malhi: “Enters land under this section”.

The Chair (Mr. Peter Tabuns): Thank you. Proceed back to where you were.

Ms. Harinder Malhi: “Assistance

“(2) The search warrant may authorize any person specified in the warrant to accompany and assist the officer in the execution of the warrant.

“Search without warrant

“(3) If an officer has reasonable grounds to believe that there is something on land that will afford evidence of an offence under this act but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the officer may, without warrant, enter and search the land.

“No entry to buildings

“(4) The power to enter land under subsection (3) does not authorize the entry into a dwelling or other building situated on the land.

“Stop order

“30.4(1) An officer appointed under section 30.1 may make an order requiring a person to stop engaging in or not to engage in an activity if the officer has reasonable grounds to believe that the person is engaging in the activity, has engaged in the activity or is about to engage in the activity and, as a result, is contravening,

“(a) subsection 28(1) or a regulation made under subsection 28(3) or under section 28.5; or

“(b) the conditions of a permit that was issued under subsection 28.1 or under a regulation made under clause 28.5(1)(c).

“Information to be included in order

“(2) The order shall,

“(a) specify the provision that the officer believes is being, has been or is about to be contravened;”

The Chair (Mr. Peter Tabuns): Ms. Malhi, just before you go further: Going back, just above under (b), “the conditions of a permit that was issued under section 28.1”, you had said “subsection”.

Ms. Harinder Malhi: “Section 28.1”.

The Chair (Mr. Peter Tabuns): Thank you. Please proceed.

Ms. Harinder Malhi: “(2) The order shall”—is that where I was?

The Chair (Mr. Peter Tabuns): No, you were at (b).

Ms. Harinder Malhi: At (b)? Okay.

“(b) briefly describe the nature of the contravention and its location; and

“(c) state that a hearing on the order may be requested in accordance with this section.

“Service of order

“(3) An order under this section shall be served personally or by registered mail addressed to the person against whom the order is made at the person’s last known address.

“Registered mail

“(4) An order served by registered mail shall be deemed to have been served on the fifth day after the day of mailing, unless the person served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person’s control, receive the order until a later date.

“Effective date

“(5) An order under this section takes effect when it is served, or at such later time as is specified in the order.

“Right to hearing

“(6) A person who is served with an order under this section may request a hearing before the authority or, if the authority so directs, before the authority’s executive committee by mailing or delivering to the authority, within 30 days after service of the order, a written request for a hearing that includes a statement of the reasons for requesting the hearing.

“Powers of authority

“(7) After holding a hearing, the authority or executive committee, as the case may be, shall,

“(a) confirm the order;

“(b) amend the order; or

“(c) remove the order, with or without conditions.

“Reasons for decision

“(8) The authority or executive committee, as the case may be, shall give the person who requested the hearing written reasons for the decision.

“Appeal

“(9) Within 30 days after receiving the reasons mentioned in subsection (8), the person who requested the hearing may appeal to the minister and, after reviewing the submissions, the minister may,

“(a) confirm the order;

“(b) amend the order; or

“(c) remove the order, with or without conditions.

“Offences

“30.5(1) Every person is guilty of an offence if he or she contravenes,

1750

“(a) subsection 28(1) or a regulation made under subsection 28(3) or under section 28.5;

“(b) the conditions of a permit that was issued under section 28.1 or under a regulation made under clause 28.5(1)(c); or

“(c) a stop order issued under section 30.4.

“Penalty

“(2) A person who commits an offence under subsection (1) is liable on conviction,

“(a) in the case of an individual,

“(i) to a fine of not more than \$50,000 or to a term of imprisonment of not more than three months, or to both, and

“(ii) to an additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues; and

“(b) in the case of a corporation,

“(i) to a fine of not more than \$1,000,000, and

“(ii) to an additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues.

“Monetary benefit

“(3) Despite the maximum fines set out in clauses (2)(a) and (b), a court that convicts a person of an offence under clause (1)(a) or (b) may increase the fine it imposes on the person by an amount equal to the amount of the monetary benefit that was acquired by the person, or that accrued to the person, as a result of the commission of the offence.

“Contravening s. 29 regulations

“(4) Every person who contravenes a regulation made under section 29 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

“Obstruction of officer

“(5) Every person who prevents or obstructs an officer from entering land under section 30.2 or 30.3 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

“Limitation period

“30.6 A proceeding shall not be commenced with respect to an offence under subsection 30.5(1), (4) or (5) more than two years after the day on which the offence first comes to the attention of an officer appointed under section 30.

“Rehabilitation orders

“30.7(1) In addition to any other remedy or penalty provided by law, the court, upon convicting a person of an offence under clause 30.5(1) (a) or (b), may order the convicted person to,

“(a) remove, at the convicted person’s expense, any development within such reasonable time as the court dates; and

“(b) take such actions as the court directs, within the time the court may specify to repair or rehabilitate the damage that results from or is in any way connected to the commission of the offence.”

The Chair (Mr. Peter Tabuns): Ms. Malhi, I’ll just stop you there. I’m going to go back to 30.6. In the last line, “under section 30.1”—what we heard there was just simply “under section 30.” Could you please repeat that with the correct number?

Ms. Harinder Malhi: “The attention of an officer appointed under section 30.”

The Chair (Mr. Peter Tabuns): It’s 30.1.

Ms. Harinder Malhi: Sorry, it looks like I have a little bit of a typo.

The Chair (Mr. Peter Tabuns): So it’s “under 30.1.”

Ms. Harinder Malhi: Yes.

The Chair (Mr. Peter Tabuns): Then, under “Rehabilitation orders,” under “(a),” the second line, “reasonable time as the court orders; and”—we heard “as the court dates; and”. Could you re-read it with the word “orders”?

Ms. Harinder Malhi: “As the court orders”.

The Chair (Mr. Peter Tabuns): Thank you. Proceed.

Ms. Harinder Malhi: “Non-compliance with order

“(2) If a person does not comply with an order made under subsection (1), the authority having jurisdiction may arrange for any removal, repair or rehabilitation that was required of a person under subsection (1) to be carried out.

“Liability for certain costs

“(3) The person to whom an order is made under subsection (1) is liable for the cost of any removal, repair or rehabilitation arranged by an authority under section (2), and the amount is recoverable by the authority by action in a court of competent jurisdiction.”

The Chair (Mr. Peter Tabuns): I appreciate the speed. But just going back to the second-last line, what we have here is “under subsection (2).” What we heard you say was “section.” Could you re-read that?

Ms. Harinder Malhi: “Under subsection (2)”.

The Chair (Mr. Peter Tabuns): That’s fine. Thank you very much.

Mr. Percy Hatfield: Point of order, Chair.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: I think there could be a typo over there on the 30 and the 30.1, because if you go back to the beginning, “Entry without warrant” and “30.2”—I believe Ms. Malhi said “30” there as well, without a “30.1” on the first page.

The Chair (Mr. Peter Tabuns): If you could correct that, then, Ms. Malhi, right at the very beginning.

Ms. Harinder Malhi: Sure: “30.1.”

The Chair (Mr. Peter Tabuns): Thank you. With that, discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Just briefly, this is a consequential amendment to separate out new bylaws of the enforcement powers. No other changes to the proposed enforcement powers have been included within this motion.

The Chair (Mr. Peter Tabuns): Mr. Hatfield.

Mr. Percy Hatfield: Through you to the parliamentary assistant, if I could, Chair: Back on page—I guess it’s the second page—“Power upon entry”, subsection (4), number 3: “Ask any questions that are relevant to the inspection to the occupant of the land.”

I wonder if, for convenience’s sake, a friendly amendment: “to the inspection to the owner or occupant of the land.” Because, as you know, you may come upon a piece of property where the owner isn’t there but some-

body who rents it is—or if it's the occupant of the land, does that only count if he or she is the owner?

It's friendly. I don't mean to belabour it any further than that. I don't see "owner" anyplace else in the clause.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: From a legal standpoint, I'm not sure where we're at.

Ms. Kristine Bittermann: Could you repeat the question?

The Chair (Mr. Peter Tabuns): Do you want to come and have a seat? If you would, introduce yourself again for Hansard.

Ms. Kristine Bittermann: It's Kristine Bittermann from the Ministry of Natural Resources and Forestry's legal services branch.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Percy Hatfield: Kristine, I don't know if you heard the suggestion under "Power upon entry" on the second page. I was suggesting that perhaps it's friendly: "Ask any questions that are relevant to the inspection to the owner or occupant of the land."

Whether that would help you—I'm not trying to be obstructionist. I don't see "owner" anyplace else in here. I could be wrong. But it may just be an oversight, or maybe just "occupant" covers it. But I was going to suggest "owner or occupant" would cover your bases.

Ms. Kristine Bittermann: I think, in general, you see some statutes that will refer to "owner or occupant," but typically an occupant would include the owner as well.

Mr. Percy Hatfield: I don't disagree with that, but if you're asking questions of the occupant of the land, it may be somebody who's renting it and doesn't have the answers to the questions that you're seeking. If you don't then have provision to go to the owner to get the answers you're seeking, then you're stuck with just talking to the guy who rents the property, I would suggest. But I'm not a lawyer.

The Chair (Mr. Peter Tabuns): Mr. Rinaldi.

Mr. Lou Rinaldi: I would think "occupant" is sufficient. I'm sure, through the legal process, if one needs to dig further to get answers—

Mr. Percy Hatfield: It will come in regulation.

Mr. Lou Rinaldi: I'm satisfied the way this is.

The Chair (Mr. Peter Tabuns): Fine. Unless you wanted to put an amendment—

Interjection.

The Chair (Mr. Peter Tabuns): Good. Did you have any further comment?

Mr. Percy Hatfield: No.

The Chair (Mr. Peter Tabuns): Mr. Hardeman.

Mr. Ernie Hardeman: I just wanted to make a general comment on this section. It has been in the previous sections too. The Ontario Federation of Agriculture has serious concerns about the repeal of these existing protections against the warrantless entry. Their concerns are based on biosecurity and animal and crop health issues. Because the government cancelled hearings, the OFA did not get an opportunity to explain their concerns to us, but it was in their written presentation that I believe the committee did receive.

I just wanted to make sure that it was on the record about their concern with this issue of warrantless entry.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, people are ready for the vote?

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

Ayes

Delaney, Dickson, Malhi, McMeekin, Rinaldi.

Nays

Coe, Hardeman, Hatfield.

The Chair (Mr. Peter Tabuns): The motion is carried.

Colleagues, with that, we are out of time.

Mr. Lou Rinaldi: Oh, no!

The Chair (Mr. Peter Tabuns): I know you feel bad about it, but it has to happen.

We stand adjourned until 4 p.m. on Tuesday, November 14, when we will resume clause-by-clause consideration of Bill 139.

The committee adjourned at 1758.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Peter Tabuns (Toronto–Danforth ND)

Vice-Chair / Vice-Présidente

Miss Monique Taylor (Hamilton Mountain ND)

Mr. Lorne Coe (Whitby–Oshawa PC)

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Joe Dickson (Ajax–Pickering L)

Ms. Harinder Malhi (Brampton–Springdale L)

Mrs. Gila Martow (Thornhill PC)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Peter Tabuns (Toronto–Danforth ND)

Miss Monique Taylor (Hamilton Mountain ND)

Substitutions / Membres remplaçants

Mr. Ernie Hardeman (Oxford PC)

Mr. Percy Hatfield (Windsor–Tecumseh ND)

Mr. Lou Rinaldi (Northumberland–Quinte West L)

Also taking part / Autres participants et participantes

Mr. James J. Bradley (St. Catharines L)

Ms. Cindy Forster (Welland ND)

Clerk / Greffière

Ms. Jocelyn McCauley

Staff / Personnel

Ms. Sibylle Filion, legislative counsel

Ms. Kristina Bittermann, counsel,

Ministry of Natural Resources and Forestry

3 1761 11466880 9

